



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

INTERNATIONAL BROTHERHOOD OF POLICE
OFFICERS (SUPERIOR POLICE OFFICERS)

Petitioner

v.

CITY OF NASHUA, NEW HAMPSHIRE
POLICE DEPARTMENT

Respondent

CASE NO. P-0741

DECISION NO. 86-30

APPEARANCES

Representing the International Brotherhood of Police Officers:

Richard Remmes, Esq., National Association of Government Employees

Representing the City of Nashua, Police Department:

Steven Bolton, Esq., Counsel

Also in attendance:

Raymond Cabana, Capt., Nashua Police Dept.
Steven R. Closs, Sgt., Nashua Police Dept.
Clifton D. Largy, Nashua Police Dept.
Gary H. Watson, Nashua Police Dept.
Joseph Dumas, Nashua Police Dept.
James Slattery, Nashua Police Dept.
Walter Bausha, City of Nashua
William Quigley, Chief of Police Dept.
Joseph Burrows, Lt., Nashua Police Dept.
Richard R. Gagnon, Nashua Police Dept.
Thomas A. Tureo, Jr., IBPO

BACKGROUND

The International Brotherhood of Police Officers (IBPO) filed a petition for certification of a unit which would include all superior officers of the Nashua Police Department above the rank of Patrolmen; i.e., Sergeants, Lieutenants and Captains, excluding Chief, Bureau Commanders and the Administrative Assistant.

The City of Nashua (City) objected to (1) inclusion of Platoon Commanders holding the rank of Captain on the basis of their supervisory authority over Lieutenants, Sergeants and Patrolmen; (2) inclusion of Lieutenants also on the basis of their supervisory authority as Station Supervisors over Sergeants and Patrolmen; (3) again on inclusion of Lieutenant in their capacity as Division Superintendents directing and supervising Sergeants and Detectives (Patrolmen); and, (4) alleging that a bargaining unit composed of Sergeants and of a unit

composed of Patrolmen and Detectives would constitute an inherent and irreconcilable conflict of interest. (IBPO is currently certified as exclusive representative for Patrolmen and Detectives). The City further alleged that IBPO could not be certified to represent both the Patrolmen, Detectives and Superior Officers in the same Department.

Hearing on the unit determination was held in the Public Employee Labor Relations Board office (Board) in Concord on April 10, 1986 with all parties represented.

FINDINGS OF FACT

The Superior Officers of the Nashua Police Department are all public employees within the meaning of RSA 273-A, 1, IX.

At least thirty percent of the employees in the proposed bargaining unit seeking recognition signed individual signature cards as evidence of their desire to be represented in collective bargaining by IBPO, meeting the requirements under Section 10.

The Legislature in passing RSA 273-A made it possible for professional and supervisory employees to form their own bargaining units and even possible for professional and non-professional employees, voting separately, to join together for the purpose of collective bargaining.

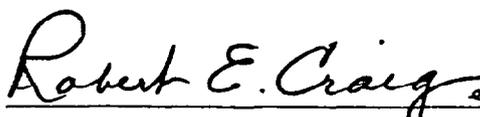
All positions petitioned for by IBPO in the City of Nashua Police Department; namely, Lieutenants, Captains and Sergeants are supervisory and meet the requirements under 273-A.

The employees all have a strong community of interest and meet the standards set forth in 273-A:8; same conditions of employment, same historic profession, operating within the same organizational unit, etc.

Although some employees have certain supervisory functions over other members of the proposed unit, it is important to note that the Legislature did not say, "Persons exercising supervisory authority may not belong to the same bargaining unit as the employees they supervise", but instead the Legislature added the limiting words "involving the significant exercise of discretion" and the Board finds that the amount of supervision in this case is not significant enough to warrant their exclusion from an all supervisory unit.

DECISION AND ORDER

Having reviewed the evidence and testimony presented at the hearing, the Board hereby grants the petition and orders that an election be held as expeditiously as possible to determine if the employees wish to be represented by IBPO for the purpose of collective bargaining.



ROBERT E. CRAIG, Chairman

Signed this 14th day of May, 1986

By unanimous vote. Chairman Craig presiding, members Roulx and Molan present and voting. Also present, Executive Director Evelyn C. LeBrun.



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

IBPO (Superior Police Officers) :
 v. :
 CITY OF NASHUA, Police Commission :

CASE NO. P-0741 DECISION NO. 96-30

FINDINGS OF FACT AND RULINGS OF LAW

Findings of fact and rulings of law are in compliance with request filed by Counsel for the City of Nashua at the April 10, 1986 PELRB hearing.

- Requests 1-10 - Granted.
- " 11 - Granted in part.
- " 12 - Granted.
- " 13 - Granted in part.
- " 14 - Granted.
- " 15-16 - Denied. PELRB finds that the supervision responsibilities are not sufficient to warrant exclusion from an all-supervisory unit.
- " 17-19 - Granted.
- " 20-21 - Denied. PELRB finds as in 15 and 16.
- " 22-27 - Granted.
- " 28-29 - Denied. PELRB finds as in 15, 16, 20 and 21.
- " 30-31 - Granted.
- " 32-33 - Denied. PELRB finds as in 15, 16, 20, 21, 28 and 29.
- " 34-38 - Granted.
- " 39-40 - Denied, PELRB finds as in 15, 16, 20, 21, 28, 29, 32 and 33.
- " 41-43 - Granted.
- " 44 - Denied. Units of supervisors and non-supervisors, in separate units, certified under 273-A are currently represented by the same Association/Union; such as, State Employees Association, IAFF, etc.

N. H. Supreme Court in the case of City of Concord v. Public Employee Labor Relations Board, State of N. H., 119 NH 725, 407 A2d, 363 (1979) ruled on that, "We hold that RSA ch 273-A as a whole, and especially section 8, II, was intended to keep supervisory personnel separate from rank and file, not only by requiring that their members be in separate bargaining units, but also, as a logical consequence, that they not be allowed to 'comingle on each other's negotiating teams'."

- Request 45 - Granted
- " 46 - Denied. PELRB finds as in 44.